



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-970]

Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination and Amended Final Determination of the Antidumping Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On July 6, 2015, the United States Court of International Trade (“CIT”) issued *Changzhou Hawd Flooring Co. v. United States*, Ct. No. 12-20, Slip Op. 15-71 (CIT July 6 2015), affirming the Department of Commerce’s (the “Department”) amended final determination of sales at less than fair value in the antidumping duty investigation on multilayered wood flooring from the People’s Republic of China (“*Amended Final Determination*”),¹ as modified by the Department’s fourth remand redetermination pursuant to court order.

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (“CAFC”) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”), the Department is notifying the public that the Court’s final judgment in this case is not in harmony with the *Amended Final Determination*, and that the Department is revising its *Amended Final Determination*.

¹ See *Multilayered Wood Flooring from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) (“*Final Determination*”); *Multilayered Wood Flooring From the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 76 FR 76690 (December 8, 2011) (“*Amended Final Determination*”).

EFFECTIVE DATE: July 16, 2015.

FOR FURTHER INFORMATION CONTACT: Robert Galantucci and Brandon Farlander, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-2923 and (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

The litigation in this case relates to the Department's final determination in the antidumping duty investigation covering multilayered wood flooring from the People's Republic of China ("PRC"),² which was later amended.³ Pursuant to a series of remand orders issued by the CIT⁴ that resulted in four remand redeterminations,⁵ the Department: (1) revised its calculation of dumping margins for two mandatory respondents and the PRC-wide entity; and (2) the Department made certain findings regarding the dumping margins for eight separate rate respondents that were plaintiffs in the litigation, as summarized below.⁶

Regarding the dumping margins for two mandatory respondents in the investigation, on April 23, 2014, the CIT granted a consent motion for severance and entered final judgment in *Baroque Timber Industries (Zhongshan) Company, Limited v. United States* and *Zhejiang Layo*

² See *Final Determination*, 76 FR at 64318.

³ See *Amended Final Determination*, 76 FR at 76690.

⁴ See *Baroque Timber Indus. (Zhongshan) Co., Ltd. v. United States*, 925 F. Supp. 2d 1332 (CIT July 31, 2013); *Baroque Timber Indus. (Zhongshan) Co., Ltd. v. United States*, 971 F. Supp. 2d 1333 (CIT March 31, 2014); *Changzhou Hawd Flooring Co. v. United States*, 44 F. Supp. 3d 1376 (CIT January 23, 2015).

⁵ See Final Results of Redetermination Pursuant to Court Order, Court No. 12-00007, dated November 14, 2013; Final Results of Redetermination Pursuant to Court Order, Court No. 12-00007, dated May 29, 2014; Final Results of Redetermination Pursuant to Court Order, Court No. 12-00020, dated October 14, 2014; and Final Results of Redetermination Pursuant to Court Order, Court No. 12-00020, dated March 24, 2015.

⁶ The eight separate rate respondents were cooperative respondents, but were not individually investigated in the antidumping duty investigation.

Wood Industry Co., Ltd. v. United States with respect to Layo Wood and the Samling Group.⁷

The Department previously gave notice of this decision, as well as the amended dumping margins of zero percent calculated for Layo Wood and Samling Group, in accordance with the notice requirements of *Timken*.⁸ Further, because we changed the surrogate values in our first remand redetermination for mandatory respondents Layo Wood and Samling Group, the highest calculated transaction-specific rate on the record became 25.62 percent, and we assigned that rate to the PRC-wide entity.⁹

Regarding the dumping margins for the eight separate rate respondents that were plaintiffs to this litigation, the CIT issued a series of a remand orders before affirming the Department's fourth remand redetermination.¹⁰ As a result of the Department's second redetermination on remand, the Department assigned to seven of the eight separate rate respondents above *de minimis* antidumping duty rates for the investigation, but found that it was unnecessary to calculate an exact rate for those respondents because any rate assigned for the investigation stage of the proceeding would be superseded by the rates assigned to those companies in the first administrative review and would not be used for liquidation purposes. The CIT affirmed this portion of the Department's remand redetermination on January 23, 2015.¹¹ However, the eighth separate rate respondent, Changzhou Hawd Flooring Co. ("Changzhou

⁷ The full names of those companies are Zhejiang Layo Wood Industry Co. Ltd. ("Layo Wood") and Baroque Timber Industries (Zhongshan) Co., Ltd., Riverside Plywood Corporation, Samling Elegant Living Trading (Labuan) Limited, Samling Global USA, Inc., Samling Riverside Co., Ltd., and Suzhou Times Flooring Co., Ltd. (collectively, "the Samling Group").

⁸ See *Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination and Amended Final Determination of the Antidumping Duty Investigation*, 79 FR 25109 (May 2, 2014).

⁹ See Final Results of Redetermination Pursuant to Court Order, Court No. 12-00007, dated November 14, 2013, at 27.

¹⁰ See *Changzhou Hawd Flooring Co. v. United States*, Ct. No. 12-20, Slip Op. 15-71 (CIT July 6, 2015).

¹¹ See *Changzhou Hawd Flooring Co. v. United States*, 44 F. Supp. 3d 1376, 1387-88 (CIT January 23, 2015). The seven respondents to which the Department's determination applied were: Fine Furniture (Shanghai) Limited, Armstrong Wood Products (Kunshan) Co., Ltd., Dunhua City Jisen Wood Industry Co., Ltd., Dunhua City Dexin Wood Industry Co., Ltd., Dalian Huilong Wooden Products Co., Ltd., Kunshan Yingyi-Nature Wood Industry Co., Ltd., and Karly Wood Product Limited.

Hawd”), did not have any shipments of subject merchandise during the first period of review and the Department did not assign Changzhou Hawd a separate rate from the first administrative review. Thus, in a fourth remand redetermination, the Department assigned Changzhou Hawd a margin of 3.30 percent (Changzhou Hawd’s original rate from the Department’s *Amended Final Determination* in the investigation),¹² effective for cash deposit purposes only, pending final establishment in the second administrative review of Changzhou Hawd’s new cash deposit rate and assessment rate. On July 6, 2015, the CIT found that the Department’s methodology in applying this rate was supported by substantial evidence and in accordance with law.¹³ Subsequent to the CIT’s entry of judgment, the Department published the final results of the second administrative review, which have superseded the cash deposit rate of 3.30 percent assigned to Changzhou Hawd for purposes of this litigation.¹⁴

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (“the Act”), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision.

The CIT’s July 6, 2015 final judgment affirming the Department’s redetermination constitutes a final decision of the Court that is not in harmony with the original *Amended Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken*.

¹² This cash deposit rate of 3.30 percent was the original rate applied to Changzhou Hawd in the *Amended Final Determination*. The rate was calculated by taking the simple average of the two non-*de minimis* rates calculated for Layo Wood and the Samling Group in the *Amended Final Determination*. Although Layo Wood’s and the Samling Group’s rates were subsequently changed on remand (thus altering the basis for Changzhou Hawd’s 3.30 percent rate), the Department provided evidence that the rate was “reasonably reflective” of Changzhou Hawd’s “potential dumping margin,” and the CIT sustained this determination. See *Changzhou Hawd*, Slip Op. 15-71 (CIT July 6, 2015), at 11.

¹³ See *Changzhou Hawd*, Slip Op. 15-71 (CIT July 6, 2015), at 3-4.

¹⁴ See *Multilayered Wood Flooring From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Results of New Shipper Review; 2012-2013*, 80 FR 41476 (July 15, 2015).

Amended Final Determination

There is now a final court decision with respect to the *Amended Final Determination* as it concerns the eight separate rate respondents and the PRC-wide entity in this matter. For the eight separate rate respondents, as of the date of this notice, all eight companies have received updated cash deposit rates, and their rates will not change as a result of this litigation. However, for the PRC-wide entity, the Department is amending the *Amended Final Determination* and the revised cash deposit rate for this entity is as follows:

Exporter	Cash Deposit Rate (percent)
PRC-wide entity	25.62

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: July 20, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

[FR Doc. 2015-18214 Filed: 7/23/2015 08:45 am; Publication Date: 7/24/2015]